



September 13, 1999

Mr. Hugh Davis, Jr.
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102-6311

OR99-2556

Dear Mr. Davis:

You have asked whether certain information is subject to required public disclosure under the Public Information Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 127251.

The City of Fort Worth Police Department (the "department") received a request for "[a]ll information generated into the investigation of a fatal crash involving Fort Worth Police officer K.G. Bratt." In response to the request, you submit to this office for review the records at issue. You assert that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception and arguments you have raised and reviewed the submitted information.

Section 552.108, the "law enforcement," exception excepts from required public disclosure

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

....

(c) This section does not except from the requirements of section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We also note that section 552.108 is not applicable when no criminal investigation is undertaken. *See Morales v. Ellen*, 840 S.W.2d 519 (Tex. Civ. App.-- El Paso 1992, writ denied); Open Records Decision No. 350 (1982).¹ Furthermore, this office has determined that section 552.108 does not protect general personnel information from public disclosure. Open Records Decision No. 562 at 10 (1990) (applying predecessor statute).

Although you have not specifically cited section 552.108(a)(1), you state that the fatal motor vehicle accident involving the officer is being investigated by the department and the Tarrant County District Attorney as a criminal incident. You further contend that the "the release of this information prior to completion of the Internal Affairs investigation and the District Attorney's determination would compromise the investigation, and should the DA's office so proceed, the Grand Jury Process as well." Based on your representation of a pending criminal investigation, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, we conclude that the department may withhold most of the submitted information from disclosure under section 552.108(a)(1).

However, certain basic information normally found on the front page of an offense report, including a detailed description of the offense, is generally considered public. *See* Gov't Code § 552.108(c); *see generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 187 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Therefore, we conclude that, except for basic information subject to release, section 552.108(a)(1) excepts the remaining information from public disclosure. Although section 552.108 authorizes you to withhold the remaining information from public disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

¹Internal affairs investigations are generally administrative, as opposed to criminal, in nature.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large loop at the beginning.

Sam Haddad
Assistant Attorney General
Open Records Division

SH/nc

Ref.: ID# 127251

Encl. Submitted documents

cc: Mr. Ethan Dreilinger
Investigative Producer
KTVT-TV
5233 Bridge Street
Fort Worth, Texas 76103
(w/o enclosures)